Supreme Court, U.S.
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No. 84-1601

In the Supreme Court

OF THE

United States

OCTOBER TERM, 1984

AETNA LIFE INSURANCE CO.,
Appellant,

VS.

MARGARET W. LAVOIE and ROGER J. LAVOIE, SR.,
Appellees.

On Appeal from the Supreme Court of Alabama

BRIEF OF ASSOCIATION OF CALIFORNIA INSURANCE COMPANIES AND CALIFORNIA STATE AUTOMOBILE ASSOCIATION INTER-INSURANCE BUREAU AS AMICI CURIAE IN SUPPORT OF APPELLANT

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No. 84-1601

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BRIEF OF ASSOCIATION OF CALIFORNIA INSURANCE COMPANIES AND CALIFORNIA STATE AUTOMOBILE ASSOCIATION INTER-INSURANCE BUREAU AS AMICI CURIAE IN SUPPORT OF APPELLANT

INTRODUCTION

With the consent of the parties, the Association of California Insurance Companies ("ACIC") and the California State Automobile Association Inter-Insurance Bureau ("CSAA") respectfully submit this brief as *amici curiae* in support of appellant Aetna Life Insurance Company.

ACIC is an insurance trade organization comprised of 40 property-casualty insurers doing business in California, who collectively write policies accounting for approximately 30% of the property-casualty premiums in California.

CSAA is a reciprocal insurance exchange formed in 1914 to provide automobile insurance to California drivers at reasonable rates. CSAA currently has 830,000 policyholders and insures approximately 1.5 million automobiles. In 1985, it will write automobile insurance accounting for approximately $600 million in premiums in California.

INTEREST OF AMICI CURIAE

Amici's interest in this case arises from the California insurance industry's experience in recent years with the explosion in the size and number of punitive damage awards. Amici submit that this dual-front increase is due, in great measure, to the lack of guidelines given to juries by which they may determine whether punitive damages should be awarded and, if so, in what amount. Statistics demonstrating these California developments since the beginning of 1983 are included in, and appended to, this brief.

Amici believe that the propriety of allowing juries to impose multi-million dollar civil penalties without any consistent standards upon which to do so presents a problem of national scope and constitutional significance which this Court should address. Moreover, based on the commonly-held, though unscientific, theory that what happens in California today will be experienced by the rest of the nation shortly, amici submit that the grim reality demonstrated by the California statistics will not long be confined to this state. The result in this very case is proof of that hypothesis. Amici urge this Court to assume jurisdiction herein, to adopt appellant's argument that the uncontrolled award of punitive damages violates both the Excessive Fine and Due Process Clauses of the Constitution of the United States, and to reverse the judgment of the Alabama Supreme Court.

SUMMARY OF DISCUSSION

In California, the frequency with which juries award punitive damages, and the sizes of those awards, has risen to an alarming level. Multi-million dollar awards are now commonplace. At the same time, there is no consistency among these awards based on any objective criteria.

There are no ascertainable standards in California by which a jury can determine whether an award of punitive damages should be made or, if an award is proper, the size of such award. The potential harm resulting from this unguided inquiry is compounded by recent developments in California which have greatly

expanded the availability of punitive damages to situations in which they have traditionally been foreclosed.

DISCUSSION

I

A STATISTICAL ANALYSIS OF PUNITIVE DAMAGE AWARDS FROM 1983 TO THE PRESENT DEMONSTRATES AN INCREASE IN THE SIZE AND NUMBER OF SUCH AWARDS

In the last few months, four juries in the San Francisco Bay Area have returned punitive damage awards of $20 million (San Francisco, March 1985), $125 million (Oakland, March), $46.5 million (San Jose, April), and $26.7 million (Sonoma County, July). A Los Angeles jury awarded $35 million in punitive damages in June. In a span of only five months, a total of over $253 million in punitive damages has been awarded in just five cases.

Startling though these figures may be, they are fully consistent with the general inclination of juries in California to award ever larger amounts of punitive damages in an increasing number of situations. As graphic illustration of this point, amici have attached to this brief as Appendix A a compilation of 211 California trial court punitive damage awards rendered between January 1, 1983 and July 19, 1985.[1] This appendix shows that during 1983, a total of 73 juries awarded $69,466,504 in punitive damage awards.

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[1] The primary source of the statistics in Appendix A is a private statewide publication, *Jury Verdicts Weekly*, which compiles for the benefit of California lawyers reports of jury verdicts in all California state and federal courts. *Jury Verdicts Weekly* does not purport to be a complete listing of every verdict in California since the publication depends on trial attorneys to submit the results of their cases. However, *Jury Verdicts Weekly* is recognized in California as the most authoritative existing source of information concerning verdicts and has been referred to as authority by California appellate courts. *See, e.g., River Garden Farms, Inc. v. Superior Court*, 26 Cal.App.3d 986, 998, 103 Cal.Rptr. 498 (1972). Information about five large verdicts too recent to be included in *Jury Verdicts Weekly* comes from newspaper articles.

In 1984, 112 juries awarded total punitive damages of $105,682,027. In the 26 cases reported so far this year in California, juries have returned punitive damage verdicts totaling $274,101,205. These verdicts may be further broken down according to size of verdict as follows:[2]

	$1,000-99,999		$100,000-999,999		$1 million +	
Year	No. of Cases	% of Total	No. of Cases	% of Total	No. of Cases	% of Total
1983	36	49%	26	36%	11	15%
1984	49	44%	43	38%	20	18%
1985	9	34%	8	31%	9	35%

Appendix A demonstrates a rather dramatic recent increase in the amount of punitive damage awards, whether analyzed in terms of average award or gross amount. The average award in 1983 was $951,596; in 1984 it was $943,589. In approximately the first quarter of 1985 it has been $10,542,354, or more than *ten times* the average for the previous year.

The gross amount of punitive damage awards reflects a comparable escalation. In 1983, the number of punitive damage awards of under $100,000 compared to those of $100,000 or over was approximately equal; in 1984, the ratio had risen slightly, but was still less than 1.3:1. In 1985, there are nearly twice as many awards over $100,000 as under that amount. A similar upward trend is seen in the awards of $1 million or over: in 1983, they comprised 15% of all punitive damage awards; in 1984, 18%. In 1985, that figure has nearly doubled, to 35%. The megaverdicts of $10,000,000 or more have risen even more abruptly in 1985: comprising only 4% of all punitive awards in 1983 (and less than 1% in 1984), they make up 23% of the 26 punitive damage awards reported so far in 1985.

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[2] Appendix A is divided into four parts: A.1, awards of $1,000 or more (but less than $100,000); A.2, awards of $100,000 or more (but less than $1,000,000); A.3, awards of $1,000,000 or more; A.4, Statistical Analysis Summary. For the larger awards reflected in parts A.2 and A.3, additional information has been provided concerning the nature of each case, the amount of compensatory damages and, where known, the results of trial judge and appellate court review of the verdict.

The huge increase in the size of punitive damage awards in early 1985 is not the result of one or two aberrations: the average of the top 15 punitive awards in each year has climbed from $4,232,832 in 1983, to $5,877,683 in 1984, and to $18,235,680 in 1985. Even if the $125,000,000 verdict is removed from the calculation, the average of the next 14 awards in 1985 is $10,609,657, or 80.5% more than the average in 1984 and 150% more than in 1983.[3]

II

THERE ARE NO ASCERTAINABLE STANDARDS BY WHICH A JURY CAN DETERMINE WHETHER TO AWARD PUNITIVE DAMAGES OR HOW LARGE ANY SUCH AWARD SHOULD BE

The basic difficulty confronting a jury deliberating on a request for punitive damages is the absence of any ascertainable standards by which to impose punishment or set an example. Judges imposing fines on criminal defendants are limited by strict statutory directions. In contrast, California juries must mete out punishment to civil defendants based solely on abstractions.

The first level of this abstraction is found in the statute which provides the primary authority for the imposition of punitive damages. California Civil Code section 3294(a) provides:

> In an action for the breach of an obligation not arising from contract, where the defendant has been guilty of oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.

On its face, this statute provides no guidelines by which a jury may decide whether to award punitive damages other than the requirement that the defendant must have been "guilty of oppression, fraud, or malice." But these "requirements" mean little: the California Supreme Court has held that no matter how clear the

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[3] These statistics are summarized for the Court's convenience in Appendix A.4.

evidence of oppression, fraud, or malice, a plaintiff is never "entitled" to recover such damages:

> The granting or withholding of the award of punitive damages is *wholly within the control of the jury*, and *may not legally be influenced by any direction of the court* that in any case a plaintiff is entitled to them. Upon the clearest proof of malice in fact, it is still the exclusive province of the jury to say whether or not punitive damages shall be awarded. A plaintiff is entitled to such damages only after the jury, *in the exercise of its untrammeled discretion*, has made the award.

Brewer v. Second Baptist Church of Los Angeles, 32 Cal.2d 791, 801, 197 P.2d 713 (1948) (emphasis added.).

Nor is the jury given any effective standards by which to determine the amount of punitive damages to be awarded once it has decided to award them. In *Neal v. Farmers Insurance Exchange*, 21 Cal.3d 910, 148 Cal.Rptr. 389, 582 P.2d 980 (1978), the California Supreme Court set forth three criteria for determining the proper size of a punitive damage award: (1) the nature and reprehensibility of the defendant's acts, (2) the amount of compensatory damages awarded, and (3) the wealth of the particular defendant. *Id.* at 928, 148 Cal.Rptr. at 399, 582 P.2d at 990. These criteria have since been incorporated into the standard instruction given to all California juries in punitive damage cases.[4] *See* BAJI, *California Jury Instructions, Civil*,

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[4] The standard punitive damages instruction reads as follows:

PUNITIVE DAMAGES—RECOVERY OF AND MEASURE

If you find that plaintiff suffered damage as a proximate result of the conduct of the defendant on which you base a finding of liability, you may then consider whether you should award punitive damages against the defendant, for the sake of example and by way of punishment. You may in your discretion award such damages, if, but only if, you find by a preponderance of the evidence that said defendant was guilty of oppression, fraud, or malice in the conduct on which you base your finding of liability.

"Malice" means conduct which is intended by the defendant to cause injury to the plaintiff or carried on by the defendant with a conscious disregard for the rights or safety of others.

14.71 (6th Ed. 1984). But other than these extremely vague (and completely subjective) standards, the jury is given no guidance by which to determine the size of a given award. The result must necessarily be inconsistent and potentially discriminatory punitive damage awards. A process more likely to violate basic substantive and procedural fairness can hardly be imagined.

While it is obviously impossible to demonstrate statistically how juries apply the "reprehensibility" requirement, one intermediate appellate court in California did undertake to analyze the "wealth" and "relationship" data in 16 punitive damage verdicts in business and insurance cases which have been reviewed on appeal. *See Devlin v. Kearny Mesa AMC/Jeep/Renault, Inc.*, 155 Cal.App.3d 381, 393-96, 202 Cal.Rptr. 204 (1984). That analysis, which appeared as an appendix to the court's opinion, is attached to this brief as Appendix B. It demonstrates not only the *Devlin* court's conclusion that there is no "single formula for calculating punitive damages" [*id.* at 388]; it also makes plain that the

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"Oppression" means subjecting a person to cruel and unjust hardship in conscious disregard of that person's rights.

"Fraud" means an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury.

The law provides no fixed standards as to the amount of such punitive damages, but leaves the amount to the jury's sound discretion, exercised without passion or prejudice.

In arriving at any award of punitive damages, you are to consider the following:

(1) The reprehensibility of the conduct of the defendant,

(2) The amount of punitive damages which will have a deterrent effect on the defendant in the light of defendant's financial condition,

(3) That the punitive damages must bear a reasonable relation to the actual damages.

If you find that plaintiff is entitled to an award of punitive damages against defendant, you shall state the amount of punitive damages separately in your verdict.

BAJI, *California Jury Instructions, Civil*, 14.71 (6th Ed. 1984).

alleged criteria set out in *Neal* do not even provide a framework within which that calculation can be made.

As to the wealth criterion, the juries whose verdicts are reflected in Appendix B awarded punitive damages representing as little as 0.33% of defendant's net worth, or as much as 50%. There has been no higher degree of consistency in the relationship between compensatory and punitive damages: the cases listed in Appendix B show that even after consideration by the appellate courts the ratios range between 1.1:1 and 2000:1 (or more recently 190.5:1).

The thoughtful appellate judge who authored the *Devlin* opinion has described well the difficulties faced by juries in attempting to impose punitive damages under the vague guidelines of California law:

> The process through which a fact finder finds punitive damages is somewhat contradictory. On the one hand, the court or jury must be sufficiently disturbed to conclude the defendant must be punished. On the other hand, although outraged, the fact finder cannot be vindictive. The channeling of just the correct quantum of bile to reach the correct level of punitive damages is, to put it mildly, an unscientific process complicated by personality differences. Conduct which one person may view as outrageous another may accept without feeling, depending on such diverse characteristics as an individual's background, temperament and societal concerns. The process is further complicated by the lack of objective criteria from either the Legislature or the courts as to 'how much' is necessary to punish and deter.

Id. at 388, 202 Cal.Rptr. at 208. And although the *Devlin* court concluded that "that is properly so" [*id.* at 388, 202 Cal.Rptr. at 209], the enormous awards rendered in the last few months are frightening reaffirmations of the degree to which the California judicial system has lost control of punitive damages.

It is true that the opportunity exists through a motion for new trial or an appeal to correct runaway jury verdicts. Cal. Code. Civ. Proc. § 657; *Cunningham v. Simpson*, 1 Cal.3d 301, 308, 81 Cal.Rptr. 855, 461 P.2d 39 (1969). Appendix B reflects that in 6

out of the 16 California cases listed by the *Devlin* court the punitive damage award was reduced or reversed as excessive at the trial court or appellate level. But this judicial control comes at a high price. Not only must the defendant incur additional attorneys' fees and expenses to challenge these punitive awards at the trial and appellate levels, but the defendant must post a bond of at least one-and-a-half times the amount of the award in order to obtain a stay of execution on appeal. Cal. Code Civ. Proc. § 917.1(b).[5]

III

THE COURTS HAVE GREATLY EXPANDED THE SITUATIONS IN WHICH PUNITIVE DAMAGES MAY BE AWARDED

The lack of procedural safeguards demonstrated above gains particular significance in view of several developments in California which have increased by geometric proportions the situations in which punitive damages may be awarded.

For nearly 100 years after California's punitive damage statute was enacted in 1872, punitive damage awards in California were limited to traditional tort cases; further limited to cases involving intentional torts; and even further limited to those cases in which the defendant had exhibited "malice," "oppression," or "fraud." While those statutory limitations remain intact, three important developments in California law have robbed them of any meaningful limiting effect.

A. California Courts Have Created a New Cause of Action for Tortious Breach of Contract

As early as 1958 the California Supreme Court stated that breach of the implied covenant of good faith and fair dealing in an insurance contract "sounds in both contract and tort." *Comunale*

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[5] In the case involving the $125,000,000 award, the defendants have been unable to post the required bond to obtain a stay of the judgment and have petitioned the Court of Appeal for a writ of supersedeas. California Court of Appeal, 1st Dist. No. A031998.

v. Traders & General Insurance Co., 50 Cal.2d 654, 328 P.2d 198 (1958). However, that concept of tortious breach of contract did not develop momentum or begin to impact the award of punitive damages until 1973 when, in *Gruenberg v. Aetna Insurance Co.*, 9 Cal.3d 566, 108 Cal.Rptr. 480, 510 P.2d 1032 (1973), the California Supreme Court held that this tort could be the basis of a direct action by the owner of an insurance policy against his or her insurer. Thus, notwithstanding the prohibition of punitive damages in cases "arising from contract," insureds suing their insurers for "tortious breach" of their insurance contracts were allowed to recover such damages. *Fletcher v. Western National Life Insurance Co.*, 10 Cal.App.3d 376, 89 Cal.Rptr. 78 (1970); *see, e.g., Neal v. Farmers Insurance Exchange*, 21 Cal.3d 910, 148 Cal.Rptr. 389, 582 P.2d 980 (1978); *Egan v. Mutual of Omaha Insurance Co.*, 24 Cal.3d 809, 157 Cal.Rptr. 482, 598 P.2d 452 (1979), *cert. denied* and *appeal dism'd*, 445 U.S. 912 (1980). The development of the tort of "bad faith" breach of an insurance contract has itself accounted for much of the increase in the number of punitive damage awards during the last decade.

B. The Definition of Malice Has Been Diluted

The definition of "malice" in California for purposes of assessing punitive damages was formerly "malice in fact." *Davis v. Hearst*, 160 Cal. 143, 162, 116 P. 530 (1911). Thus, in order to recover punitive damages, a plaintiff had to prove that defendant had an intent to "vex, harass, annoy, or injure," since "evil motive is the controlling and essential factor which justifies such an award . . . ." *Id.* at 162, 116 P. at 539. This definition was accepted in most California decisions involving punitive damages. *See, e.g., Gombos v. Ashe*, 158 Cal.App.2d 517, 527, 322 P.2d 933 (1958); *Roth v. Shell Oil Co.*, 185 Cal.App.2d 676, 682, 8 Cal.Rptr. 514 (1960); *Ebaugh v. Rabkin*, 22 Cal.App.3d 891, 894-95, 99 Cal.Rptr. 706 (1972).

This stringent definition of "malice" was radically altered about ten years ago when the California Supreme Court shifted from a standard requiring that the defendant have intended to injure to one requiring merely that the defendant have acted "with a conscious disregard of plaintiff's rights" [*Silberg v. California Life Insurance Co.*, 11 Cal.3d 452, 462, 113 Cal.Rptr. 711, 521

P.2d 1103 (1974)]or with a "conscious disregard of the safety of others." *Taylor v. Superior Court*, 24 Cal.3d 890, 157 Cal.Rptr. 693, 598 P.2d 854 (1979). This standard is now codified in the California Civil Code. *See* Cal. Civ. Code § 3294(c)(1). This change has allowed for the award of punitive damages in cases which had previously been considered to involve mere negligence or breach of contract. *See, e.g., Grimshaw v. Ford Motor Co.*, 119 Cal.App.3d 757, 174 Cal.Rptr. 348 (1981) [product liability]; *Nolin v. National Convenience Stores, Inc.*, 95 Cal.App.3d 279, 157 Cal.Rptr. 32 (1979) [slip-and-fall]; *Commercial Cotton Co., Inc. v. United California Bank*, 163 Cal.App.3d 511, 209 Cal.Rptr. 551 (1985) [breach of bank deposit agreement].

C. Tortious Breach of Contract Has Been Expanded To Commercial Contracts

The most recent development which promises to spur the award of punitive damages even further has been the expansion of tort remedies, and hence punitive damages, to a variety of new situations.

For example, from its initial restriction to insurance cases, the tort of bad faith spread to employment contracts, *Cleary v. American Airlines, Inc.*, 111 Cal.App.3d 443, 168 Cal.Rptr. 722 (1980); banking contracts, *Commercial Cotton Co., Inc. v. United California Bank, supra*; and leases, *Schweiso v. Williams*, 150 Cal.App.3d 883, 198 Cal.Rptr. 238 (1984). Last year, the California Supreme Court held that a party to *any* contract who both breaches that contract in bad faith and denies the existence of the contract without probable cause may be liable in tort and, upon a showing of malice, oppression, or fraud, may be required to pay punitive damages. *Seaman's Direct Buying Service, Inc. v. Standard Oil of California*, 36 Cal.3d 752, 206 Cal.Rptr. 354, 686 P.2d 1158 (1984). Subsequent cases have held that the mere breach of a commercial contract which arises in circumstances suggestive of fiduciary relationships, public interest, or adhesion will also give rise to a tort remedy. *Wallis v. Superior Court*, 160 Cal.App.3d 1109, 207 Cal.Rptr. 123 (1984) [breach of contract to pay retirement benefits]; *Commercial Cotton Co., Inc. v. United California Bank, supra* [breach of contract for maintenance of a checking account].

At the trial court level, courts seem increasingly willing to allow the issue of punitive damages to go to the jury even in cases involving disputes between sophisticated business people arising out of purely commercial transactions. *See, e.g., Jewell v. Bank of America*, Sonoma County Superior Court, No. 112-439 ($26.7 million punitive damage award); *Micro/Vest v. Computerland Corp.*, Alameda County Superior Court, No. 545-255-4 ($125 million).[6]

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[6] Computerland's motion for a new trial based, *inter alia*, on the impropriety of the punitive damages award and the excessiveness of that award was denied in its entirety on June 3, 1985. If upheld on appeal, that award will be more than 30 times greater than the next highest award ever upheld by a California appellate court. *See Hasson v. Ford Motor Co.*, 32 Cal.3d 388, 185 Cal.Rptr. 654, 650 P.2d 1171 (1984) ($4,000,000 punitive damages award affirmed).

CONCLUSION

The parties and other *amici* will adequately brief the constitutional issues raised by this case. The sole intent of ACIC and CSAA has been to give more concrete focus to the Court's examination of the punitive damages question by supplying statistics on punitive awards from the jurisdiction in which they are most widespread and extreme. The statistics leave no serious question that punitive damages verdicts against civil defendants in California are the equivalent of excessive fines, imposed inconsistently and without discernible standards. As the traditional impediments to the awards of such damages continue to be eroded, the unbridled discretion of juries to award such damages will have an even greater impact on the business transactions of society.

For these reasons, amici urge the Court to assume jurisdiction of this case and to reverse the judgment of the Alabama Supreme Court.

Respectfully submitted,

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Appendix

Date	Case Name
1985	Schleicher v. Bishop, San D Court, No. 465-951 .....
1985	Alexander v. Hartley Const County Superior Court, No. 77
1985	Chmielowski v. Narkin, Santa Court, No. 540-875 .....
1985	Richardson v. Tysch, Los Ang Court, No. C318-855 .....
1985	Aronson v. Nance, Yolo Count 49717 .....
1985	Sobonja v. Dyl, Los Angeles C No. C315-712 .....
1985	Shergate v. Lincoln Beach M County Superior Court, No. 35
1985	Merrit v. Dillon, San Mateo C No. 275-281 .....
1985	Berger v. Los Angeles Dodgers Superior Court, No. C390-930
1984	Quessenberry v. Jaoui, Los Ang Court, No. C413-180 .....
1984	Moscan International v. City Fre les County Superior Court Nos. C256-601 .....
1984	Pepper v. Guy F. Atkinson Co Superior Court, No. 278-421...
1984	Geis v. Smith, San Francisco C No. 793-043 .....
1984	Weidmann v. Sadin, San Die Court, No. 503-958 .....
1984	Jewell v. Harris, Los Angeles C No. SCC 05739 .....
1984	Yarber v. City of Inglewood, Superior Court, No. SWC 4925

A.1

	Punitive Damage Award
go County Superior	$40,000
ction Co., Ventura 06	$20,000
lara County Superior	$30,000
les County Superior	$90,000
Superior Court, No.	$2,500
unty Superior Court, ...	$7,500
bile Manor, Orange 7-72	$26,000
unty Superior Court, ...	$75,000
Los Angeles County	$75,000
les County Superior	$10,000
ght Lines, Los Ange- C304-090, C323-276, ...	$7,500
San Mateo County	$46,300
unty Superior Court, ...	$15,000
o County Superior	$2,500
unty Superior Court, ...	$95,000
os Angeles County	$5,500

Date	Case Name	Punitive Damage Award
1984	Crawford Corp. v. Azer, Los Angeles County Superior Court, No. C329-984	$8,025
1984	O'Banion v. Beckford, Napa County Superior Court, No. 45301	$1,005
1984	Caldwell v. State of California, Ventura County Superior Court, No. 74431	$75,000
1984	Wilding v. Otteson, Alameda County Superior Court, No. H-72764-6	$12,500
1984	Gore v. Bache-Halsey, Stuart Shields, Inc., San Francisco County Superior Court, No. 799-141	$2,500
1984	Weaver v. Hurless, Orange County Superior Court, No. 35-33-74	$25,000
1984	Gatturna v. Visintin, Orange County Superior Court, No. 33-30-01	$41,045
1984	Von Leden v. A.E. Harter, Inc., Yolo County Superior Court, No. 45911	$50,000
1984	Mercogliano v. Mututal Benefit Life Ins. Co., San Francisco County Superior Court, No. 784-046	$90,000
1984	Crocker National Bank v. Scott, Contra Costa County Superior Court (No. unknown)	$25,000
1984	Clausen v. Pacific Telephone & Telegraph Co., Santa Clara County Superior Court, No. 442-217	$10,000
1984	Santos v. Anchor Fishing Co., U.S.D.C., San Diego, 82-1302-G(I)	$35,000
1984	Eisenman v. San Diego Navy Federal Credit Union, San Diego County Superior Court, No. 469-832	$25,000
1984	Silva v. County of Los Angeles, Los Angeles County Superior Court, No. C900-933	$8,200
1984	Olson v. Aetna Life & Casualty Co., San Diego County Superior Court, No. 464-040	$30,000
1984	Pearlman v. GTE Directories Corp., U.S.D.C., Los Angeles, CV81-6351-LEW	$50,000
1984	Rosita K. v. National Investment Development Corp., San Francisco County Superior Court, No. 796-365	$40,000
1984	Luna v. Rasmussen, Los Angeles County Superior Court, No. C329-512	$7,500

Date	Case Name	Punitive Damage Award
1984	Hurst v. Scheef, Los Angeles County Superior Court, No. EAC 43381	$75,000
1984	Allen v. Steward Krask & Co., Los Angeles County Superior Court, No. SCC 6073	$90,000
1984	Schiavone v. Matzley, Santa Clara County Superior Court, No. 522-250	$20,000
1984	Jenkins v. Russell, Los Angeles County Superior Court, No. C314-656	$1,000
1984	Badiyan v. Ashurian, Los Angeles County Superior Court, No. C319-152	$25,000
1984	DeAngelis v. County of Los Angeles, Los Angeles County Superior Court, No. EAC 27654	$5,000
1984	Genis v. Schine, Los Angeles County Superior Court, No. C359-776	$78,000
1984	Thompson v. Mercury Ins. Group, Los Angeles County Superior Court, No. C271-758	$6,300
1984	Bresler v. Congress, San Mateo County Superior Court, No. 233-310	$60,000
1984	Quill v. Ryan, Orange County Superior Court, No. 34-47-84	$20,000
1984	Cosgrove v. Anderson, Lake County Superior Court, No. 19188	$4,300
1984	Phipps v. Valley Nat'l Bank, Los Angeles County Superior Court, No. C300-420	$1,000
1984	Piper v. Driver, Alameda County Superior Court, No. 838-862-7	$75,000
1984	Keller v. Placerville Exercise-Spa Center, El Dorado County Superior Court, No. 41863	$10,000
1984	Haber v. Beverly Regency Townhomes, Los Angeles County Superior Court, No. C301-051	$40,000
1984	Duca v. Sentinel Mortgage & Loan Co., Santa Clara County Superior Court, No. 510-037	$9,000
1984	Alves v. Taylor, Fresno County Superior Court, No. 276-364-7	$8,000
1984	Hill v. Sadhu, San Francisco County Superior Court, No. 758-657	$45,000

Date	Case Name	Punitive Damage Award
1984	Savage v. Bank of America, San Francisco County Superior Court, No. 782-170	$9,200
1984	Engell v. M.G. West Co., San Francisco County Superior Court, No. 749-957	$67,000
1984	Kelly v. Taylor, Alameda County Superior Court, No. 564-586-8	$10,000
1984	Green v. Marans, Marin County Superior Court, No. 104-689	$25,000
1984	Zinn v. Zinn, Santa Clara County Superior Court, No. 496-857	$5,000
1984	Bertuch v. Northrop Corp., Los Angeles County Superior Court, No. SWC 62827	$50,000
1983	The Cove, Inc. v. Mora, Los Angeles County Superior Court, No. C293-089	$65,000
1983	Medrano v. City of Los Angeles, Los Angeles County Superior Court, No. C214-517	$2,000
1983	Marshall v. Hansen, Los Angeles County Superior Court, No. C283-677	$1,000
1983	Bonham v. Pyramid Construction Co., Los Angeles County Superior Court, No. C286-500	$15,000
1983	Castaneda v. Michaels, Yolo County Superior Court, No. 47759	$4,000
1983	Lopes v. Morello, Santa Clara County Superior Court, No. 432-961	$1,500
1983	Marks v. Minnesota Mining & Mfg. Co., San Francisco County Superior Court, No. 78976	$75,000
1983	Ball v. Posey, San Francisco County Superior Court, No. 780-206	$40,000
1983	Light v. Witman Ranch, San Diego County Superior Court, No. N18473	$1,000
1983	Doucette v. Yoakum, Napa County Superior Court, No. 43047	$50,000
1983	Dellos v. Reiss, U.S.D.C., Los Angeles, CV80-5820-KN	$70,000
1983	Attard v. Padula, Siskiyou County Superior Court, No. 34821	$2,000

Date	Case Name	Punitive Damage Award
1983	Swartz v. Sequoia Insurance Co., San Mateo County Superior Court, No. 263-477	$48,000
1983	Hill v. Winston, Los Angeles County Superior Court, No. SOC 61369	$50,000
1983	Russell v. Barker Security Services, El Dorado County Superior Court, No. 39240	$2,500
1983	Kendall v. Dashnaw, Santa Clara County Superior Court, No. 488-046	$25,000
1983	Bowen v. McKay, San Luis Obispo County Superior Court (No. unknown)	$22,000
1983	Curran v. Lemos, Alameda County Superior Court, No. 508-921-7	$85,000
1983	Stroup v. Shepard, El Dorado County Superior Court, No. 38802	$5,000
1983	Gallaher v. Bank of America, San Mateo County Superior Court, Nos. 267-843, 270-072	$20,000
1983	Terodec, Ltd. v. Onyx Systems, Inc., Santa Clara County Superior Court, No. 508-434	$60,000
1983	Harmelink v. Breaux, San Francisco County Superior Court, No. 748-154	$28,000
1983	Clark v. Perez, Ventura County Superior Court, No. 74686	$1,500
1983	Marks v. Sears, Roebuck & Co., Contra Costa County Superior Court, No. 197-710	$15,000
1983	Bystrzycki v. Bystrzycki, Los Angeles County Superior Court, No. NCC 122-94G	$15,000
1983	Verdugo v. Galvan, Los Angeles County Superior Court, No. C398-925	$4,000
1983	Turick v. Satori, Los Angeles County Superior Court, No. C214-261	$10,000
1983	Powell v. Southland Colleges, Los Angeles County Superior Court, No. C257-411	$15,000
1983	Greenberg v. Alan Baker Co., San Mateo County Superior Court, No. 253-091	$60,000
1983	Stone v. Nelson, Alameda County Superior Court, No. TR 503-329	$83,000

Date	Case Name	Punitive Damage Award
1983	Seamount v. Maiz, U.S.D.C., Los Angeles, 81-577-FW	$25,000
1983	Linville v. Waller, Santa Clara County Superior Court, No. 471-117	$5,000
1983	Stanton v. Nessim, Los Angeles County Superior Court, No. C225-467	$10,000
1983	Peterson v. Snell, Sacramento County Superior Court, No. 303-110	$25,000
1983	Goodson v. Endy, Los Angeles County Superior Court, No. NWC 64948	$1,000
1983	Robles v. Sandoval, Yolo County Superior Court, No. 43616	$1,000

APPENDIX A.2

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1985	Martin v. Sunrise Memorial Cemetery, Alameda County Superior Court, No. 584-787-7	Cemetery Negligence	$80,000	$100,000	
1985	Manhattan Life Ins. Co. v. Eldridge, Los Angeles County Superior Court, No. C315-712	Insurance Rebate Fraud	$1.00 on cross-complaint	$160,705 on cross-complaint	Motion for new trial by plaintiff/cross-defendant denied.
1985	Winograd v. Mangel, Los Angeles County Superior Court, No. C312-549	Breach of Contract (Employment), Fraud	$27,000	$118,500	
1985	Ruby v. Industrial Indemnity Co., Sacramento County Superior Court, No. 314-482	Wrongful Termination	$225,000	$250,000	

* Aggregate award of damages against all defendants.

† Signifies that motion for new trial was granted by trial judge unless plaintiff agreed to accept remittitur of punitive award to amount stated.

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1985	Gorospe v. Rosselli, Contra Costa County Superior Court, No. 223-231	Real Estate Fraud	$32,707	$100,000	
1985	Smith v. J.C. Penney, Inc., San Joaquin County Superior Court, No. 174-068	Wrongful Termination	$15,000	$276,000	Motion for new trial denied.
1985	Hughes v. Blue Cross of Calif., San Francisco County Superior Court, No. 802-998	Insurance Bad Faith	$150,000	$700,000	
1985	Jacques Interiors v. Edwin Petrak, Los Angeles County Superior Court, No. C319-744	Insurance Bad Faith	$150,000	$700,000	
1984	Kanne v. Connecticut Gen'l Life Ins. Co., U.S.D.C., Los Angeles, No. CV83-2261-ER	Insurance Bad Faith	$250,000	$500,000	
1984	Godfrey v. Westcoast Folk Club, Orange County Superior Court, No. 31-31-29	Assault & Battery, Negligent Supervision of Employee	$35,971	$124,000	Motion for new trial denied, appealed and settled.

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1984	Doe v. Elashi, Los Angeles County Superior Court, No. SWC 67019	Sexual Assault	$325,000	$650,000	
1984	Waite v. Smith, Los Angeles County Superior Court, No. SEC 31493	Defamation	$271,000	$288,750	
1984	Shook v. International Dairy Queen, Sacramento County Superior Court, No. 293-663	Breach of Contract (Franchise Lease), Breach of Fiduciary Duty, Commercial Bad Faith	$184,325	$300,000	Motion for new trial denied
1984	San Jose Cash Register v. Tokyo Electronics Corp., Santa Clara County Superior Court, No. 453-646	Breach of Contract (Distribution), Commercial Bad Faith, Fraud	$468,000	$244,000	
1984	Comfort v. Farasat, Santa Clara County Superior Court, No. 465-171	Breach of Fiduciary Duty	$20,769	$294,700	Settled prior to ruling on motion.
1984	Putz v. Industrial Indemnity Co., Fresno County Superior Court, No. 298-261-9	Insurance Bad Faith	$67,254	$175,000	

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1984	Foreman v. United Ins. Co., Fresno County Superior Court, No. 311-303-2	Insurance Bad Faith	$100,000	$500,000	
1984	Wells v. Raymart Industries, San Francisco County Superior Court, No. 821-071	Asbestos Exposure	$213,000	$200,000	Motion for new trial denied
1984	Smyth v. Herschen, Los Angeles County Superior Court, No. SWC 67929	Fraud	$406,000	$150,000	Motion for new trial denied
1984	Multiplex Ins. Agency v. California Life Ins. Co., Alameda County Superior Court, No. 572-698-5	Breach of General Agency Contract, Bad Faith	$9,377	$100,000	
1984	Ackerman v. K-Mart Discount Stores, Los Angeles County Superior Court, No. NWC 77360	False Arrest	$20,000	$500,000	
1984	Darblay v. Western Medical Enterprises, Sonoma County Superior Court, No. 129-413	Nursing Home Negligence	$46,750	$750,000	Motion for new trial denied

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1984	Barbara Colton Interiors v. Joseoef, San Francisco County Superior Court, No. 799-187	Fraud, Plagiarism, Breach of Contract	$29,221	$292,210	
1984	Kauric v. Hodgson, San Diego County Superior Court, No. 453-818	Personal Injury	$546,050	$200,000	Motion for new trial denied.
1984	Welsh v. Marx, Riverside County Superior Court, No. 32468	Malicious Prosecution	$200,000	$112,000	
1984	Fisher v. 20th Century Ins. Co., Los Angeles County Superior Court, No. C289-277	Insurance Bad Faith	$75,000	$525,000	
1984	Pusateri v. E.F. Hutton, Santa Clara County Superior Court, No. P41234	Stock Brokerage Malpractice	$45,000	$160,000	
1984	Knott v. Boutin, Santa Clara County Superior Court, No. P38938	Fraud	$233,000	$175,000	

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1984	Weaver v. Grodins of Calif., Inc., San Mateo County Superior Court, No. 269-825	Conspiracy	$76,000	$370,000	
1984	Greenup v. Bankers United Life Assurance Co., Los Angeles County Superior Court, No. C295-381	Partnership Dispute	$125,000	$125,000	Motion for new trial denied.
1984	Gigliotti v. Collins, Santa Clara County Superior Court, No. 516466	Malicious Prosecution	$175,572	$175,000	Motion for new trial denied
1984	Nelson v. Arcuri, San Mateo County Superior Court, No. 276-076	Unfair Competition, Interference with Prospective Advantage	$53,000	$114,000	Motion for new trial dismissed by defendant.
1984	Basque French Bakery v. Toscana Baking Co., Fresno County Superior Court, No. 293-772-0	Interference with Prospective Advantage	$35,080	$100,000	Motion for new trial denied
1984	Sanders v. Airport Park Hotel, Los Angeles County Superior Court, No. C268-107	False Arrest, Intentional Infliction of Emotional Distress	$55,000	$125,000	

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1984	Davies v. Parker, Contra Costa County Superior Court, No. 218-536	Breach of Contract (Real Estate), Fraud	$94,160	$100,000	Motion for new trial not made.
1984	Vitali v. Bartell, Orange County Superior Court, No. 353-206	Medial Malpractice	$125,000	$200,000	Motion for new trial denied.
1984	Jones v. Montgomery Ward, Los Angeles County Superior Court, No. 303-841	Racial Discrimination in Employment	$40,000	$400,000	
1984	United Western Ins. Marketing v. Olken, Los Angeles County Superior Court, No. C233-535	Conversion of Company Funds, Wrongful Competition, Libel	$170,281	$166,240	
1984	Allan v. Cal-Farm Ins. Co., Sacramento County Superior Court, No. 293-411	Wrongful Termination	$240,000	$120,000	Motion for new trial denied.
1984	Tassey v. Madera Warehouse Co., Fresno County Superior Court, No. 291-438-0	Breach of Contract (Real Estate), Fraud	$44,139	$100,002	

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1984	Greenfield v. Spectrum Investment Corp., Los Angeles County Superior Court, No. NWC 80833	Assault & Battery	$350,000	$442,500	Punitive damages reduced to $380,000 by trial judge.†
1984	Wilson v. Midland Nat'l Life Ins. Co., Los Angeles County Superior Court, No. SEC 04079	Insurance Bad Faith	$155,500	$100,000	Motion for new trial not made.
1984	Willoughby v. Atlas Assurance Co., Santa Clara County Superior Court, No. 423-537	Insurance Bad Faith	$21,800	$150,000	
1984	Abel v. Abel, Riverside County Superior Court, No. JCCP 1670	Drunk Driving	$1,360,000	$100,000	
1984	Coleman & Christianson, Inc. v. Gold Depository & Loan Co., San Francisco County Superior Court, No. 788-025	Breach of Contract (Products, Services)	$38,346	$100,000	Motion for new trial not made.
1984	Oranje v. Bank of America, Solano County Superior Court (No. unknown)	Interference with Prospective Advantage	$56,400	$100,000	

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1984	Hanes v. Davis, Santa Clara County Superior Court, No. 509-526	Contract Dispute	$157,895	$250,000	Motion for new trial denied.
1984	Agarwal v. Bechtel Corp., San Francisco County Superior Court, No. 748-240	Bad Faith in Employment	$75,000	$150,000	
1984	Wright v. Echandi, Stanislaus County Superior Court, No. 191-653	Drunk Driving	$607,000	$100,000	Motion for new trial not made; judgment satisfied.
1984	Coastside Publishers & Printers v. Half Moon Bay Review, San Mateo County Superior Court, No. 267-891	Defamation	$280,000	$400,000	
1984	Boozer v. All-West Design, Fresno County Superior Court, No. 283-964-5	Breach of Contract, Fraud	$71,287	$175,000	

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1983	Baysinger v. Pacific Mutual Life Ins. Co., Sacramento County Superior Court, No. 299-656	Insurance Bad Faith	$9,923	$480,000	Punitive damages reduced to $250,000 by trial judge.†
1983	Sullivan v. Kaiser Foundation Health Plan, San Diego County Superior Court, No. 740-729	Insurance Bad Faith	$45,000	$400,000	Motion for new trial granted as to punitive damages.
1983	Ladd v. Superfilm, Ltd., Los Angeles County Superior Court, No. C288-339	Invasion of Privacy	$300,000	$750,000	
1983	Frankenberger v. Int'l Real Estate Network, Los Angeles County Superior Court, No. C251-804	Breach of Franchise Contract	$392,400	$150,000	
1983	Glass v. Philip Roxane, Inc., Los Angeles County Superior Court, No. C270-762	Product Liability	$500,000	$750,000	Settled prior to ruling on motion for new trial.
1983	Kelly v. General Telephone Co., Los Angeles County Superior Court, No. C333-007	Defamation	$139,000	$139,000	

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1983	Collins v. Berner, Santa Clara County Superior Court, No. P42588	Emotional Distress, Harassment	$164,930	$250,000	Motion for new trial denied; judgment satisfied.
1983	Silverado Title Co. v. Sorensen, El Dorado County Superior Court, No. 32128	Shareholders Dispute, Fraud	$476,000	$150,000	
1983	Dime's Group, Inc. v. Travenol Laboratories, Inc., Santa Clara County Superior Court, No. 497-822	Interference with Contract	$50,000	$225,000	Motion for new trial denied
1983	Greenup v. Rodman & Rodman Aviation Corp., Los Angeles County Superior Court, No. SWC 55678	Breach of Fiduciary Duty	$338,000	$338,000	
1983	Schroeder v. Safeco Ins. Co., Los Angeles County Superior Court, No. C276-816	Insurance Bad Faith	$25,000	$125,000	

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1983	Americana Air Cargo v. Sendrex Cargo, Los Angeles County Superior Court, No. C263-621	Breach of Contract (Business Termination), Emotional Distress	$83,452	$100,000	Motion for new trial not made.
1983	Schwab v. Smith,, Sacramento County Superior Court, No. 287-729	Breach of Contract (Lease-Sale of Real Estate), Fraud	$132,000	$100,000	
1983	Mammoth Vista Owner's Assoc., Inc. v. General Ins. Co., Mono County Superior Court, No. 6283	Insurance Bad Faith	$120,000	$150,000	
1983	Adams v. Esparza, San Francisco County Superior Court, No. 740-553	Drunk Driving Product Liability	$4,037,108	$300,000	Motion for new trial denied
1983	Bravo v. The Clubhouse, Los Angeles County Superior Court, No. SEC 26523	Dramshop Act	$2,000,000	$200,000	
1983	Kan v. American Dist. Telegraph Co., San Francisco County Superior Court, Nos. 766-155, 768-189	Theft by Employee	$60,981	$339,525	

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1983	Shirkhani v. Starcrest Productions, Orange County Superior Court, No. 28-82-58	Fraud	$1,400,000	$200,000	Motion for new trial denied.
1983	Four 425 Shatto Bldg. v. Air Conditioning Co., Inc., Los Angeles County Superior Court, No. C259-049	Breach of Contract (Design and Installation), Fraud	$661,369	$500,000	Motion for new trial denied.
1983	Robinson v. Firestone Tire & Rubber Co., Los Angeles County Superior Court, No. C237-373	Product Liability	$80,000	$240,000	Settled.
1983	Wright v. Randles, San Francisco County Superior Court, No. 718-261	Medical Malpractice	$800,000	$200,000	Motion for new trial denied.
1983	Nakahara v. Ace American, Inc., U.S.D.C., Santa Clara (No. unknown)	Securities Fraud	$153,000	$503,000	

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1983	Calloway v. The Travelers Ins. Co., Sacramento County Superior Court, No. 301-780	Insurance Bad Faith	$33,600	$100,000	
1983	Hobbs v. Bateman Eichler, Hill, Richards, Los Angeles County Superior Court, No. C372-866	Breach of Fiduciary Duty	$96,000	$220,000	
1983	Mancini v. Royal Indemnity Co., Alameda County Superior Court, No. 443-154	Insurance Bad Faith	$300,000	$900,000	Motion for new trial not made.
1983	Cook v. Sears, Roebuck & Co., Los Angeles County Superior Court, No. NWC 77359	Defamation	$75,000	$125,000	Motion for new trial denied.

APPENDIX A.3

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1985	Jewell v. Bank of America, Sonoma County Superior Court, No. 112-439	Commercial Bad Faith	$20,000,000	$26,700,000	
1985	Tan Jay Int'l, Ltd. v. Canadian Indemnity Co., Los Angeles County Superior Court, No. C485-516	Insurance Bad Faith	$5,298,178	$35,000,000	
1985	Haun v. NEC Electronics, Inc., Santa Clara County Superior Court, No. 475-898	Breach of Contract (Representation), Fraud	$7,000,000	$46,500,000	Motion for new trial granted.
1985	Micro/Vest v. Computerland Corp., Alameda County Superior Court, No. 545-255-4	Conversion of Dividends	$4,500,000 (approx.)	$125,000,000	Motion for new trial denied.

* Aggregate award of damages against all defendants.

† Signifies that motion for new trial was granted by trial judge unless plaintiff agreed to accept remittitur of punitive award to amount stated.

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1985	Rice Growers Assoc. of California v. Trans-America Delaval, Inc., San Francisco County Superior Court, No. 766-754	Product Liability	$19,163,960	$20,000,000	Punitive damages reduced to $1,000,000 by trial judge.†
1985	McCullough v. S&H Ins. Co., Los Angeles County Superior Court, No. CA000-581	Wrongful Termination	$10,000,000	$10,000,000	
1985	Eastridge v. Shell Oil Co., Orange County Superior Court, No. 39-88-62	Interference with Prospective Advantage	$147,000	$5,002,500	
1985	Young v. Knudsen Corp., Los Angeles County Superior Court, No. C327-913	Breach of Contract (Construction), Fraud	$182,051	$2,120,000	
1985	Bryant v. Merrill, Lynch, Pierce, Fenner & Smith, U.S.D.C., San Diego, No. 83-0476-G	Securities Fraud	$25,000	$1,007,500	Punitive damages reduced to $151,200 by trial judge.†
1984	McNair v. Worldwide Church of God, Los Angeles County Superior Court, No. NEC 27381	Defamation	$260,000	$1,000,000	Motion for new trial denied.

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1984	Ballou v. Traweek Investment Co., Los Angeles County Superior Court, Nos. C314-886, C318-757	Real Estate Fraud	$138,000	$2,000,000	Punitive damages reduced to $250,000 by trial judge.†
1984	Tuchinsky v. Tuchinsky, Los Angeles County Superior Court, No. C478-561	Malicious Prosecution	$4,000,000	$2,000,000	Motin for new trial denied.
1984	Farrell v. Police & Fireman Ins. Assoc., Santa Clara County Superior Court, No. 439-453	Insurance Bad Faith	$1,560	$1,150,000	Punitive damages reduced to $161,038.58 by trial judge.†
1984	Litwak v. Fed Mart Corp., San Diego County Superior Court, No. 467-675	Wrongful Termination, Libel	$3,270,791	$3,000,000	Motion for new trial denied
1984	Dustman v. AMC Jeep Corp., Shasta County Superior Court (No. unknown)	Product Liability	$113,100	$4,300,000	Motion for new trial denied.

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1984	Taylor v. State Farm, Los Angeles County Superior Court, No. C300-645	Insurance Bad Faith	$576,000	$2,000,000	
1984	Haughton v. Unigard Mutual Ins. Co., Los Angeles County Superior Court, No. C165-151	Insurance Bad Faith	$1,170,433	$4,000,000	Motion for new trial denied.
1984	Davis v. Continental Ins. Co., Santa Clara County Superior Court, No. 527-880	Insurance Bad Faith	$91,350	$1,500,000	Motion for new trial denied.
1984	Satalich v. State Farm, Orange County Superior Court, No. 31-76-01	Insurance Bad Faith	$0	$1,007,000	

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1983	Mattie v. Picker Corp., Santa Clara County Superior Court, No. 444-398	X-Ray Exposure	$260,000	$3,500,000	Motion for new trial denied.
1984	Royster v. Mission Ins. Co., Santa Clara County Superior Court, No. 491-170	Insurance Bad Faith	$206,094	$4,000,000	
1984	Bertolani v. Equitable Life Assurance Society, Sacramento County Superior Court, No. 304-814	Insurance Bad Faith	$500,000	$5,000,000	Motion for new trial denied.
1984	Downey Savings & Loan Assoc. v. Ohio Casualty Ins. Co., Los Angeles County Superior Court, No. C262-871	Insurance Bad Faith	$123,769	$5,000,000	
1984	Fellows v. Allstate Ins. Co., Los Angeles County Superior Court, No. C259-993	Insurance Bad Faith	$500,000	$40,025,000	

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1984	Greenberg v. Coldwell Banker Co., Los Angeles County Superior Court, No. C262-113	Real Estate Fraud	$826,500	$8,456,250	
1984	Gump v. Wells Fargo Bank, San Francisco County Superior Court, No. 740-289	Breach of Trust	$23,262	$1,000,000	
1984	Pitts v. Fibre-board Corp., Alameda County Superior Court, No. 509-336-0	Asbestos Exposure	$869,810	$1,800,000	Motion for new trial denied
1984	Phillips v. Travelers Financial Services, Sacramento County Superior Court, No. 313-139	Wrongful Termination	$2,215,583	$1,584,000	
1984	Stern v. Dow Corning, Corp., U.S.D.C., San Francisco, No. C83-2348	Product Liability	$211,000	$1,500,000	
1983	Lembo v. Nardoni, Los Angeles County Superior Court, No. C394-771	Fraud	$755,000	$1,000,000	

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1983	Creative Wood Design v. Aetna Casualty & Surety Ins. Co., Santa Cruz County Superior Court, No. 72066	Insurance Bad Faith	$400,000	$1,000,000	
1983	The P.K.L. Companies v. Eaton Corp., Los Angeles County Superior Court (No. unknown)	Breach of Fiduciary Duty, Accounting Fraud	$2,633,599	$15,000,000	Motion for new trial denied.
1983	Berk v. National Union Fire Ins. Co., Los Angeles County Superior Court, No. C248-876	Insurance Bad Faith	$659,231	$13,054,479	Motion for new trial denied.
1983	Young v. Great Western United, Inc., Los Angeles County Superior Court, No. C140-284	Breach of Employment Contract, Fraud	$278,250	$1,500,000	Motion for new trial denied.
1983	S.R.H. Fabrics, Inc. v. Formoco Int'l Corp., Ltd., Los Angeles County Superior Court, No. C293-403	Fraud	$500,000	$2,035,000	

Date	Case Name	Type of Case	Compensatory Damages*	Original Punitive Damages*	Disposition of Punitive Award Following Motion For New Trial (If Known)†
1983	Frazier v. Metropolitan Life Ins. Co., Los Angeles County Superior Court, No. C233-971	Insurance Bad Faith	$162,000	$8,000,000	Punitive damages reduced to $2,000,000 by trial judge;† stricken on appeal based on statute of limitations.
1983	Shepler v. Anami Ashram, Inc., Santa Clara County Superior Court, Nos. P41427, P41647	Will Contest (Undue Influence)	$18,000	$2,000,000	
1983	Sprague v. Equifax, Inc., Los Angeles County Superior Court, No. C218-000	Conspiracy to Deny Insurance Benefits	$100,000	$5,000,000	Punitive damages reduced to $1,000,000 by trial judge;† affirmed on appeal.
1983	Boles v. Travelers Indemnity Co., San Francisco County Superior Court, No. 763-319	Insurance Bad Faith	$637,000	$2,000,000	Motion for new trial denied.
1983	West v. Johnson & Johnson Products, Inc., Santa Clara County Superior Court, No. 465-188	Product Liability	$500,000	$10,000,000	

Appendix A.4

STATISTICAL ANALYSIS SUMMARY

I

Average Punitive Damage Verdict:

All verdicts:	
1983	$ 951,596
1984	943,589
1985 (approx.)(1)	10,542,354
Top 15 verdicts:	
1983	$ 4,232,832
1984	5,877,683
1985	18,235,680(2)

II

Largest awards as a percentage of all punitive awards:

Awards of $1,000,000 or more:	
1983	15%
1984	18%
1985	35%
Awards of $10,000,000 or more:	
1983	4%
1984	0.9%
1985	23%

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(1) The 26 cases from 1985 are those reported in *Jury Verdicts Weekly* through the July 5, 1985 edition, which includes cases for about the first quarter, and five recent verdicts reported in newspapers but not yet in *Jury Verdicts Weekly*.

(2) Eliminating the highest award ($125,000,000), this figure becomes $10,609,657 for the next 14 highest verdicts.

Case	Compensatory Damages	Original Punitive Damages	Relationship of Punitive Damages to Wealth of Defendant	Trial Court Ruling on New Trial Motion	Relationship of Punitive Damages to Wealth of Defendant	Appellate Court Decision (re Damages)	Final Relationship of Punitive Damages to Wealth of Defendant	Final Ratio of Punitive Damages to Compensatory Damages
Finney v. *Lockhart* (1950) 35 Cal.2d 161	$1	$2,000	No wealth data	Denied	No wealth data	Affirmed	No wealth data	2,000 to 1
Bertero v. *National General Corp.* (1974) 13 Cal.3d 43	$553,953	$625,000	No wealth data	Denied	No wealth data	Affirmed	No wealth data	1.1 to 1
Neal v. *Farmers Ins. Exchange* (1978) 21 Cal.3d 910	No more than $10,000	About $1,538,211	0.73% net assets 0.2% gross assets 12.5 days net income	Granted (unless Punitives remitted to $740,000)	0.35% net assets 0.1% gross assets 6 days net income	Affirmed	0.35% net assets 0.1 gross assets 6 days net income	74 to 1
Wetherbee v. *United Ins. Co. of America* (1968) 265 Cal.App.2d 921	$1,050	$500,000	No wealth data	Denied	No wealth data	Punitive Damages Reversed as Excessive	No wealth data	476.2 to 1
Wetherbee v. *United Ins. Co. of America* (1971) 18 Cal.App.3d 266	$1,050	$200,000	0.33% net assets 0.07% gross assets 6.1 days net income	Denied	0.33% net assets 0.07% gross assets 6.1 days net income	Affirmed	0.33% net assets 0.07% gross assets 6.1 days net income	190.5 to 1

Case	Compensatory Damages	Original Punitive Damages	Relationship of Punitive Damages to Wealth of Defendant	Trial Court Ruling on New Trial Motion	Relationship of Punitive Damages to Wealth of Defendant	Appellate Court Decision (re Damages)	Final Relationship of Punitive Damages to Wealth of Defendant	Final Ratio of Punitive Damages to Compensatory Damages
Roemer v. *Retail Credit Co.* (1975) 44 Cal.App.3d 926	$40,000	$250,000	0.63% net worth 2.78% net income 10 days net income	Denied	0.63% net worth 2.78% net income 10 days net income	Affirmed	0.63% net worth 2.78% net income 10 days net income	6.3 to 1
Merlo v. *Standard Life & Acc. Ins. Co.* (1976) 59 Cal.App.3d 5	$267,295	$500,000	31.1% net worth	Denied	31.1% net worth	Both Compensatory and Punitive Damages Reversed as Excessive	—	—
Zhadan v. *Downtown L.A. Motors* (1976) 66 Cal.App.3d 481	$5,342	$175,000	32.92% net worth	Granted (unless Punitives remitted to $50,000)	9.4% net worth	Punitive Damages Reversed as Excessive	—	—
Little v. *Stuyvesant Life Ins. Co.* (1977) 67 Cal.App.3d 451	$172,325	$2.5 million	14.83% net assets In excess of 15% net worth	Denied	14.83% net assets In excess of 15% net worth	Punitive Damages Reversed as Excessive (unless remitted to $250,000)	1.48% net assets In excess of 1.5% net worth	1.5 to 1

Case	Compensatory Damages	Original Punitive Damages	Relationship of Punitive Damages to Wealth of Defendant	Trial Court Ruling on New Trial Motion	Relationship of Punitive Damages to Wealth of Defendant	Appellate Court Decision (re Damages)	Final Relationship of Punitive Damages to Wealth of Defendant	Final Ratio of Punitive Damages to Compensatory Damages
Walker v. *Signal Companies, Inc.* (1978) 84 Cal.App.3d 982	$17,328	$215,000	Less than 1% gross assets	None	Less than 1% gross assets	Compensatory Damages Reduced to $8,814 Punitive Damages Affirmed	Less than 1% gross assets	25.6 to 1
Zhadan v. *Downtown Los Angeles Motor Distributors, Inc.* (1979) 100 Cal.App.3d 821	$5,260	$90,000	6.85% net worth	Denied	6.85% net worth	Affirmed	6.85% net worth	17.1 to 1
Miller v. *Elite Ins. Co.* (1980) 100 Cal.App.3d 739	Apparently $15,000	$150,000	2-3% net worth (or maybe 18%)	None	2-3% net worth (or maybe 18%)	Affirmed	2-3% net worth (or maybe 18%)	10 to 1
Schomer v. *Smidt* (1980) 113 Cal.App.3d 828	$20,000	$16,000	10% net worth About 3 months salary	Denied	10% net worth About 3 months salary	Affirmed	10% net worth About 3 months salary	0.8 to 1
Godfrey v. *Steinpress* (1982) 128 Cal.App.3d 154	$21,800	$60,000	6% net assets 4.62% net worth	None	6% net assets 4.62% net worth	Affirmed	6% net assets 4.62 net worth	2.8 to 1

Case	Compensatory Damages	Original Punitive Damages	Relationship of Punitive Damages to Wealth of Defendant	Trial Court Ruling on New Trial Motion	Relationship of Punitive Damages to Wealth of Defendant	Appellate Court Decision (re Damages)	Final Relationship of Punitive Damages to Wealth of Defendant	Final Ratio of Punitive Damages to Compensatory Damages
Burnett v. *National Enquirer, Inc.* (1983) 144 Cal.App.3d 991	$300,000	$1.3 million	50% net worth 83.33% net income 10 months net income	Damages Remitted to $50,000 Compensatory $750,000 Punitives	28.85% net worth 48.08% net income 5.8 months net income	Punitive Damages Reversed as Excessive (unless remitted to $150,000)	5.77% net worth 9.62% net income 5 weeks net income	3 to 1
Moore v. *American United Life Ins. Co.* (1984) 150 Cal.App.3d 610	$30,000	$2.5 million	3.2% net assets 0.25% gross assets 3.4 weeks net income	Denied	3.2% net assets 0.25% gross assets 3.4 weeks net income	Affirmed (Reversed award of attorney fees)	3.2% net assets 0.25% gross assets 3.4 weeks net income	83.33 to 1